

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4354

BY DELEGATES WORRELL, SUMMERS AND WILSON

[Introduced January 15, 2020; Referred to the
Committee on Health and Human Resources then the
Judiciary.]

1 A BILL to amend and reenact §60A-2-201 of the Code of West Virginia, 1931, as amended,
2 relating to drugs.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-201. Authority of Board of Pharmacy; recommendations to Legislature.

1 (a) The ~~state~~ Board of Pharmacy shall administer the provisions of this chapter. It shall
2 also, on the first day of each regular legislative session, recommend to the Legislature which
3 substances should be added to or deleted from the schedules of controlled substances contained
4 in this article or reschedule therein. The ~~state~~ Board of Pharmacy shall also have the authority
5 between regular legislative sessions, on an emergency basis, to add to or delete from the
6 schedules of controlled substances contained in this article or reschedule such substances based
7 upon the recommendations and approval of the federal food, drug and cosmetic agency, and shall
8 report such actions on the first day of the regular legislative session immediately following said
9 actions.

10 In making any such recommendation regarding a substance, the ~~state~~ Board of Pharmacy
11 shall consider the following factors:

- 12 (1) The actual or relative potential for abuse;
13 (2) The scientific evidence of its pharmacological effect, if known;
14 (3) The state of current scientific knowledge regarding the substance;
15 (4) The history and current pattern of abuse;
16 (5) The scope, duration and significance of abuse;
17 (6) The potential of the substance to produce psychic or physiological dependence liability;
18 and
19 (7) Whether the substance is an immediate precursor of a substance already controlled
20 under this article.

21 (b) After considering the factors enumerated in subsection (a), the ~~state~~ Board of
22 Pharmacy shall make findings with respect to the substance under consideration. If it finds that
23 any substance not already controlled under any schedule has a potential for abuse, it shall
24 recommend to the Legislature that the substance be added to the appropriate schedule. If it finds
25 that any substance already controlled under any schedule should be rescheduled or deleted, it
26 shall so recommend to the Legislature.

27 (c) If the ~~state~~ Board of Pharmacy designates a substance as an immediate precursor,
28 substances which are precursors of the controlled precursor shall not be subject to control solely
29 because they are precursors of the controlled precursor.

30 (d) If any substance is designated, rescheduled or deleted as a controlled substance under
31 federal laws and notice thereof is given to the ~~state~~ Board of Pharmacy, the board shall
32 recommend similar control of such substance to the Legislature, specifically stating that such
33 recommendation is based on federal action and the reasons why the federal government deemed
34 such action necessary and proper.

35 (e) The authority vested in the board by subsection (a) of this section shall not extend to
36 distilled spirits, wine, malt beverages or tobacco as those terms are defined or used in other
37 chapters of this code nor to any nonnarcotic substance if such substance may under the "Federal
38 Food, Drug and Cosmetic Act" and the law of this state lawfully be sold over the counter without
39 a prescription.

40 (f) Notwithstanding any provision of this chapter to the contrary, the sale, wholesale,
41 distribution or prescribing of a cannabidiol or nabiximol in a product approved by the Food and
42 Drug Administration is permitted and shall be placed on the schedule or descheduled as provided
43 for by the Drug Enforcement Administration.

NOTE: The purpose of this bill is to add nabiximols to the permitted list of distributed and prescribed drugs, if scheduled or descheduled by the Food and Drug Administration.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.